

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

GREG ABBOTT, in his capacity as
GOVERNOR OF THE STATE OF TEXAS,
and THE STATE OF TEXAS,

Defendants.

Case No. 1:23-cv-00853-DAE

**JOINT MOTION TO ENTER STIPULATION AND PROPOSED ORDER REGARDING
DISCOVERY PROCEDURES AND CONFIDENTIAL INFORMATION**

Plaintiff, the United States of America, and Defendants, Governor Greg Abbott and the State of Texas (together, “Texas”), hereby jointly move the Court to enter a proposed stipulation and order addressing certain discovery procedures. In support of this Motion, the Parties state the following:

1. Rule 26(f) of the Federal Rules of Civil Procedure states that the Parties must develop a proposed discovery plan that states the Parties’ views and proposals on, among other things, “any issues about disclosure, discovery, or preservation of electronically stored information, including the form or forms in which it should be produced,” Fed. R. Civ. P. 26(f)(3)(C). Rule 29(b) states that the Parties may also stipulate that “procedures governing or limiting discovery be modified.” Fed. R. Civ. P. 29(b).

2. Pursuant to these Rules, the Parties have met and conferred to develop and submit for the Court’s approval a Stipulation and Proposed Order regarding future discovery in this

matter of electronically stored information (“ESI”). More broadly, the Stipulation and Proposed Order is intended, *inter alia*, to: (a) reduce the time, expense, and other burdens of discovery of certain ESI and privileged materials in this case; (b) better define the scope of the Parties’ obligations with respect to preserving such information and materials; (c) define the procedures for handling Protected Information that may be produced in response to discovery requests; (d) define the procedures to apply in the event of inadvertent disclosure of documents or information claimed as privileged or otherwise protected from discovery; and (e) ensure the appropriate disposition of documents produced by each Party to the other Party, following the final conclusion and termination of this litigation including any appeals.

3. The Court previously entered a scheduling order on March 4, 2024. ECF 97. The present Stipulation and Proposed Order covers different details than those already addressed by the Court’s March 4 order, and it does not alter the existing case schedule.

4. The Parties agree that the Stipulation and Proposed Order is in the interests of both Parties and the Court, as it generally will reduce the expense and burden of discovery.

5. Defendants join this motion and authorize counsel for the United States to file it on Defendants’ behalf.

CONCLUSION

For the foregoing reasons, the Parties respectfully request that the Court grant this motion and enter the attached Stipulation and Proposed Order as an order of the Court.

Respectfully submitted,

Dated: April 26, 2024

JAIME ESPARZA
UNITED STATES ATTORNEY

TODD KIM
ASSISTANT ATTORNEY GENERAL
Environment & Natural Resources Division

LANDON A. WADE
Assistant United States Attorney
Texas Bar No. 24098560
United States Attorney's Office
Western District of Texas
903 San Jacinto Blvd., Suite 334
Austin, TX 78701
(512) 370-1255 (tel)
(512) 916-5854 (fax)
Landon.wade@usdoj.gov

/s/ Brian H. Lynk
BRIAN H. LYNK
Senior Trial Counsel
DC Bar No. 459525
KIMERE J. KIMBALL
Trial Attorney
CA Bar No. 260660
ANDREW D. KNUDSEN
Trial Attorney
DC Bar No. 1019697
BRYAN J. HARRISON
Trial Attorney
FL Bar No. 106379
U.S. Department of Justice
Environmental Defense Section
P.O. Box 7611
Washington, DC 20044
(202) 514-6187 (Lynk)
(202) 514-8865 (fax)
Brian.lynk@usdoj.gov
Kimere.kimball@usdoj.gov
Andrew.knudsen@usdoj.gov
Bryan.harrison@usdoj.gov

Counsel for the United States of America

CERTIFICATE OF SERVICE

I certify that on April 26, 2024, a copy of this filing was served on counsel of record through the Court's electronic filing system.

/s/ Brian Lynk
Brian Lynk